

REMARKS

In the Office Action, Claims 1-12, 14, and 15 are currently pending. Claims 1, 2, 4, 8, 11, and 12 are amended to more distinctly claim what Applicant regards as the present invention and are supported by the specification and claims as originally filed. No subject matter has been relinquished by such amendments. No new matter is added by way of these amendments. Applicant reserves the right to pursue these claims, prior versions of the claims, and/or the cancelled claims in another application.

Applicant notes that the Examiner states that this application names joint inventors. (See Office Action at page 2). The Applicant respectfully points out that only one inventor, Paul Stuart Coley, is named in this application. Appropriate correction is requested.

In the Office Action, the Examiner rejected claims 1-12 and 14-15 under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,475,290 to Jones ("Jones"). In addition, the Examiner rejected claims 1-7 and 14-15 under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,376,451 to Teasdale at al. ("Teasdale"). Furthermore, the Examiner rejected claims 1-4 and 6-12 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,871,590 to Hei at al. ("Hei"). The Examiner also rejected claims 1-4 and 6-12 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,525,255 to Leadingham at al. ("Leadingham"). For the reasons detailed below, these rejections should be withdrawn and the claims should be allowed to issue.

Applicant's Reply

In this Response, Applicant amends claims 1, 2, 4, 8, 11, and 12 and address the Examiner's rejections. Support for the amendments to the claims can be found throughout the application. Amendments to the claims are being made solely to expedite prosecution and do not constitute an acquiescence to any of the Examiner's rejections. Applicant's silence with regard to the Examiner's rejections of the dependent claims constitutes a recognition by the Applicant that the rejections are moot based on Applicant's Amendment and Remarks relative to the independent claim from which the dependent claims depend.

I. Rejections under 35 U.S.C. §102(b) and (e) and 35 U.S.C. §103(a)

Claims 1-12 and 14-15 are rejected under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Jones. Claims 1-7 and 14-15 are rejected under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Teasdale. Claims 1-4 and 6-12 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Hei. Claims 1-4 and 6-12 are also rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Leadingham.

Under Section 102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131; *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates." *Mehl/Biophile Int'l Corp.*

v. Milgraum, 192 F.3d 1362 (Fed. Cir. 1999). Importantly, “[t]he mere fact that a certain thing may result from a given set of circumstances is insufficient to prove anticipation.” *Electro Med. Sys., S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048 (Fed. Cir. 1994).

To reject claims in an application under Section 103, an examiner must establish a *prima facie* case of obviousness. Using the Supreme Court’s guidelines enunciated in *Graham v. John Deere*, 383 U.S. 1, 17 (1966), one determines “obviousness” as follows:

Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined.

In *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. ___, No. 04-1350 (U.S. April 30, 2007), the Supreme Court reaffirmed the *Graham* test, and indicated that although it should not be rigidly applied, a useful test for determining obviousness is to consider whether there is a teaching, suggestion or motivation in the prior art that would lead one of ordinary skill in the art to combine known elements of the prior art to arrive at the claimed invention. Importantly, the Court emphasized that a patent examiner’s analysis under Section 103 should be made explicit in order to facilitate review.

Thus, to establish a *prima facie* case of obviousness, the Examiner has an obligation to construe the scope of the prior art, identify the differences between the claims and the prior art, and determine the level of skill in the pertinent art at the time of the invention. The Examiner must then provide: (1) an explicit, cogent reason based on the foregoing why it would be obvious to modify the prior art to arrive at the claimed invention; (2) a reasonable expectation of success; and (3) a teaching or suggestion of all claimed features. See M.P.E.P. §§ 706.02(j) and 2143. As provided herein, none of the cited references, whether considered separately or in

combination, disclose or suggest the inclusion of an alkali metal halide and therefore do not anticipate or render obvious claims 1, 2, and 8. Applicant's failure to address the other elements of 35 U.S.C. § 103(a) does not constitute an admission that such elements are satisfied, but rather a recognition that such elements are moot given the Examiner's failure to provide a showing of all the claimed features. Applicant reserves the option to comment on such elements in further prosecution.

Independent claim 1, as amended, is directed to a composition suitable for use as a wash water additive in wash water in a vehicle wash and recites, *inter alia*, "an alkali metal halide." As discussed herein, neither Jones, Teasdale, Hei, nor Leadingham considered alone or in combination, disclose or suggest the inclusion of an alkali metal halide.

Jones is directed to a method for the cleaning of a substrate such as floor, deck of vessel or a motor vehicle. Jones also is directed to a cleaning solution for substrates comprising a lignosulfonate, a pH adjusting agent and hydrocarbon degrading microorganisms. (See col. 3, lines 28-33, examples 1-2, and claims 1-5). Jones, however, does not disclose or suggest an alkali metal halide and there is no motivation for one skilled in the art to alter the composition disclosed in Jones to include an alkali metal halide. Accordingly, Jones does not disclose or suggest all of the features of claim 1, and claim 1 is not anticipated or rendered obvious by Jones.

Teasdale discloses an aqueous hard surface cleaning composition contains anionic and nonionic surfactants, an enzyme mixture for breaking down organic compounds, a nonpathogenic bacteria, buffer and water (See col. 1, line 43 – col. 2, line 3 and claims 1-8). Teasdale, however, does not disclose or suggest an alkali metal halide and there is no motivation for one skilled in the art to alter the composition disclosed in Teasdale to include an alkali metal

halide. Accordingly, Teasdale does not disclose or suggest all of the features of claim 1, and claim 1 is not anticipated or rendered obvious by Teasdale.

Hei discloses a touchless car wash aqueous concentrate composition that can be diluted with water to form an aqueous use solution. (See col. 4, line 25 – col. 5, line 11 and claim 1). Hei, however, does not disclose or suggest an alkali metal halide and there is no motivation for one skilled in the art to alter the composition disclosed in Hei to include an alkali metal halide. Accordingly, Hei does not disclose or suggest all of the features of claim 1, and claim 1 is not anticipated or rendered obvious by Hei.

Leadingham discloses a cleaning agent composition containing a surfactant, nonylphenol ethoxylate, and a wetting agent alkane sulfonate, for removing oils and greases from the surfaces of objects. (See claim 1). Leadingham, however, does not disclose or suggest an alkali metal halide and there is no motivation for one skilled in the art to alter the composition disclosed in Leadingham to include an alkali metal halide. Accordingly, Leadingham does not disclose or suggest all of the features of claim 1, and claim 1 is not anticipated or rendered obvious by Leadingham.

Therefore, claim 1 is not anticipated or rendered obvious by the cited art for at least these reasons.

Since claim 1 is allowable, claims 5-7, 11, 12, 14, and 15 depending therefrom are also allowable.

Independent claim 2 as amended is directed to a composition suitable for use as a detergent composition in a vehicle wash, which similarly recites “an alkali metal halide.” Claim 2 is therefore patentable over cited art for the same reasons as claim 1 discussed above.

Since claim 2 is allowable, claims 3 and 4 depending therefrom are also allowable.

Independent claim 8, as amended, is directed to a method of operating a vehicle wash by dispensing a composition, which similarly recites “an alkali metal halide.” Therefore, claim 8 is patentable over cited art for at least the same reasons as claim 1 discussed above.

Since claim 8 is allowable, claims 9, and 10 depending therefrom are also allowable.

II. CONCLUSION

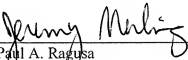
Entry of the foregoing amendments and remarks into the file of the above-identified application is respectfully requested. Applicant believes that claims 1-12, 14, and 15 are in condition for allowance. Withdrawal of all rejections and reconsideration of the amended claims is requested. An early allowance is earnestly sought.

Applicant believes that no additional fees are due in the timely filing of this response. In the event that fees are due, or overpayment is made, however, the Director is hereby authorized to charge payment of any such fees, or to credit any overpayment, to Deposit Account No. 02-4377.

If there are any remaining issues to be resolved, Applicant respectfully requests that the Examiner kindly contact the undersigned attorney for early resolution.

Respectfully submitted,

Dated: August 14, 2007



Paul A. Ragusa
Patent Office Reg. No. 38,587

Jeremy Merling
Patent Office Reg. No. 60,219

BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, New York 10112-4498

Attorneys for Applicant
(212) 408-2500